

Part 1

Local Health Department Act

26A-1-101 Short title.

This part is known as the "Local Health Department Act."

Renumbered and Amended by Chapter 269, 1991 General Session

26A-1-102 Definitions.

As used in this part:

- (1) "Board" means a local board of health established under Section 26A-1-109.
- (2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52, Part 5, Forms of County Government.
- (3) "County health department" means a local health department that serves a county and municipalities located within that county.
- (4) "Department" means the Department of Health created in Title 26, Chapter 1, Department of Health Organization.
- (5) "Local health department" means:
 - (a) a single county local health department;
 - (b) a multicounty local health department;
 - (c) a united local health department; or
 - (d) a multicounty united local health department.
- (6) "Mental health authority" means a local mental health authority created in Section 17-43-301.
- (7) "Multicounty local health department" means a local health department that is formed under Section 26A-1-105 and that serves two or more contiguous counties and municipalities within those counties.
- (8) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous counties and municipalities within those counties.
- (9) "Single county local health department" means a local health department that is created by the governing body of one county to provide services to the county and the municipalities within that county.
- (10) "Substance abuse authority" means a local substance abuse authority created in Section 17-43-201.
- (11) "United local health department":
 - (a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and
 - (b) includes a multicounty united local health department.

Amended by Chapter 113, 2016 General Session

26A-1-103 County health departments.

The governing body of each county shall create and maintain a local health department which includes and serves all incorporated and unincorporated areas in the county.

Amended by Chapter 249, 2002 General Session

26A-1-105 Multicounty local health departments.

- (1) Two or more contiguous counties may, by executing an agreement pursuant to the provisions of Title 11, Chapter 13, Interlocal Cooperation Act, unite to create and maintain a local health department that does not combine the substance abuse authority and the mental health authority with the local health department.
- (2) Any municipalities within counties comprising a multicounty local health department under Subsection (1) shall be served by the multicounty local health department.

Amended by Chapter 113, 2016 General Session

26A-1-105.5 United local health department -- Multicounty united local health department -- Election by county governing body -- Appointment of director.

- (1) A county governing body may elect to:
 - (a) form a united local health department for the purpose of combining into a single entity the duties of:
 - (i) the local health department;
 - (ii) the mental health authority; and
 - (iii) the substance abuse authority; and
 - (b) provide for the coordination of services for the populations served by the entities described in Subsection (1)(a).
- (2)
 - (a) Two or more contiguous counties may, by executing an agreement pursuant to the provisions of Title 11, Chapter 13, Interlocal Cooperation Act, unite to create and maintain a multicounty united local health department.
 - (b) Any municipalities within counties comprising a multicounty united local health department under Subsection (2)(a) shall be served by the multicounty united local health department.
- (3) A united local health department created under this section shall administer the programs and services of each entity listed in Subsections (1)(a) in accordance with:
 - (a) this chapter;
 - (b) Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities; and
 - (c) Title 17, Chapter 43, Part 3, Local Mental Health Authorities.
- (4)
 - (a) Notwithstanding Section 26A-1-110:
 - (i) the county governing body shall, in consultation with the board, appoint an executive director for a united local health department and determine the executive director's compensation; and
 - (ii) the county governing bodies of a multicounty united local health department shall, in consultation with the board, appoint an executive director for the multicounty local health department and determine the executive director's compensation.
 - (b) An executive director appointed under Subsection (4)(a):
 - (i) shall serve as the local health officer; and
 - (ii) may be removed for cause under Section 26A-1-111.
- (5) The treasurer of a united local health department may establish and maintain funds in addition to the local health department fund established under Section 26A-1-119, if the additional fund is necessary to:
 - (a) provide substance abuse authority services or mental health authority services; and
 - (b) comply with federal regulation or federal statute.

Enacted by Chapter 113, 2016 General Session

26A-1-106 Assistance in establishing local departments -- Monitoring and standards of performance -- Responsibilities.

- (1)
 - (a) By request of county governing bodies, the department may assist in the establishment of a local health department.
 - (b) The department shall monitor the effort of the local health department to protect and promote the health of the public.
 - (c) The department shall establish by rule minimum performance standards for basic programs of public health administration, personal health, laboratory services, health resources, and other preventive health programs not in conflict with state law as it finds necessary or desirable for the protection of the public health.
 - (d) The department may by contract provide:
 - (i) funds to assist a local health department if local resources are inadequate; and
 - (ii) assistance to achieve the purposes of this part.
- (2) Regulations or standards relating to public health or environmental health services adopted or established by a local health department may not be less restrictive than department rules.
- (3) Local health departments are responsible within their boundaries for providing, directly or indirectly, basic public health services that include:
 - (a) public health administration and support services;
 - (b) maternal and child health;
 - (c) communicable disease control, surveillance, and epidemiology;
 - (d) food protection;
 - (e) solid waste management;
 - (f) waste water management; and
 - (g) safe drinking water management.
- (4) The Department of Environmental Quality shall establish by rule minimum performance standards, including standards for inspection and enforcement, for basic programs of environmental health, not inconsistent with law, as necessary or desirable for the protection of public health.

Amended by Chapter 249, 2002 General Session

26A-1-108 Jurisdiction and duties of local departments.

A local health department has jurisdiction in all unincorporated and incorporated areas of the county or counties in which it is established and shall enforce state health laws, Department of Health, Department of Environmental Quality, and local health department rules, regulations, and standards within those areas.

Amended by Chapter 249, 2002 General Session

26A-1-109 Local boards of health -- Membership -- Organization -- Meetings.

- (1) A local health department shall have a board of health with at least three members.
 - (a)
 - (i) Board members shall be appointed pursuant to county ordinance or interlocal agreement by the counties creating the local health department.

- (ii) The board may include representatives from the municipalities included within the area served by the local health department.
 - (b) The board shall be nonpartisan.
 - (c) An employee of the local health department may not be a board member.
- (2)
- (a) As possible, of the initial board:
 - (i) 1/3 shall serve a term of one year;
 - (ii) 1/3 shall serve a term of two years; and
 - (iii) 1/3 shall serve a term of three years.
 - (b) All subsequent appointments shall be for terms of three years and shall be made, as possible, so 1/3 of the terms of office of those serving on the board expire each year. Members appointed to fill vacancies shall hold office until expiration of the terms of their predecessors.
 - (c) Board members may be removed by the appointing county for cause prior to the expiration of the member's term. Any board member removed pursuant to this Subsection (2) may request and receive a hearing before the county legislative body prior to the effective date of the removal.
- (3)
- (a) All members of the board shall reside within the boundaries of the area served by the local health department.
 - (b) A majority of the members may not:
 - (i) be primarily engaged in providing health care to individuals or in the administration of facilities or institutions in which health care is provided;
 - (ii) hold a fiduciary position or have a fiduciary interest in any entity involved in the provision of health care;
 - (iii) receive either directly or through a spouse more than 1/10 of the member's gross income from any entity or activity relating to health care; and
 - (iv) be members of one type of business or profession.
- (4)
- (a) The board shall at its organizational meeting elect from its members a chairman and a vice chairman and secretary.
 - (b) The health officer of the local health department appointed pursuant to Section 26A-1-110 or Section 26A-1-105.5 may serve as secretary to the board.
- (5)
- (a)
 - (i) Regular meetings of the board shall be held not less than once every three months.
 - (ii) Special meetings may be called by the chairman, the health officer, or a majority of the members at any time on three days' notice by mail, or in case of emergency, as soon as possible after the members of the board have been notified.
 - (b) A board may adopt and amend bylaws for the transaction of its business. A majority of the board members constitute a quorum.
 - (c) Members serve without compensation, but shall be reimbursed for actual and necessary traveling and subsistence expenses when absent from their place of residence in attendance at authorized meetings.
 - (d) All meetings are presumed to have been called and held in accordance with this section and all orders and proceedings are presumed to be authorized unless the contrary is proved.
- (6) The board shall annually report the operations of the local health department and the board to the local governing bodies of the municipalities and counties served by the local health department.

- (7) The board shall annually send a copy of the local health department's approved budget to the department and all local governing bodies of the municipalities and counties served by the local health department. The report shall be submitted no later than 30 days after the beginning of the local health department's fiscal year.
- (8) The board shall determine the general public health policies to be followed in administration of the local health department and may adopt and enforce public health rules, regulations, and standards necessary to implement the board's public health policies. The board shall adopt written procedures to carry out the provisions of this section.

Amended by Chapter 113, 2016 General Session

26A-1-110 Local health officer -- Powers and duties -- Vacancy.

- (1) Except as provided in Section 26A-1-105.5, the board shall appoint a local health officer and determine the officer's compensation:
 - (a) subject to ratification by the county executive of the county or counties in the local health department; and
 - (b) as provided by:
 - (i) ordinance adopted by a county creating a county health department; or
 - (ii) the interlocal agreement pursuant to which a multicounty health department is created.
- (2) The local health officer shall:
 - (a) have the qualifications of training and experience for that office equivalent to those approved by the department for local health officers;
 - (b) be the administrative and executive officer of the local health department and devote full time to the duties of the office;
 - (c) if provisions have been made with the department, act as the local registrar of vital statistics within the local health department's boundaries without additional compensation or payment of fees provided by law;
 - (d)
 - (i) prior to the beginning of each fiscal year, prepare an annual budget approved by the board and present it:
 - (A) to the county legislative body if the local health department is a county health department; or
 - (B) to the entity designated in the interlocal agreement creating the local health department if the local health department is a multicounty health department; and
 - (ii) obtain final approval of the annual budget from the governing bodies designated in Subsection (2)(d)(i)(A) or (B) after the governing body either:
 - (A) reviews and approves the budget; or
 - (B) amends and approves the budget; and
 - (e) prepare an annual report and provide it to the department and all counties in the local health department.
- (3) The report under Subsection (2)(e) shall contain a copy of the independent financial audit required under Section 26A-1-115, a description of the population served by the local health department, and other information as requested by the board or the county or counties creating the local health department.
- (4) In the absence or disability of the local health officer, or if there is a vacancy in that office, the board shall appoint an acting health officer for a temporary period not to exceed one year. The appointment shall be ratified by the county executive of the county or counties in the local health department.

Amended by Chapter 113, 2016 General Session

26A-1-111 Removal of local health officer.

- (1) The local health officer may be removed for cause in accordance with this section by:
 - (a) the board, if the local health officer is appointed for a single county local health department;
 - (b) a majority of the counties in the local health department if:
 - (i) the local health department is:
 - (A) a multicounty local health department created under Section 26A-1-105; or
 - (B) a multicounty united local health department created under Section 26A-1-105.5; and
 - (ii) the county executives rescind or withdraw, in writing, the ratification of the local health officer; or
 - (c) the county governing body, if the local health department is a united local health department for a single county, and the county governing body rescinds or withdraws, in writing, the ratification of the local health officer.
- (2)
 - (a) A hearing shall be granted, if requested by the local health officer, prior to removal of the local health officer.
 - (b) If a hearing is requested, it shall be conducted by a five-member panel with:
 - (i) two elected members from the county or counties in the local health department, selected by the county executives;
 - (ii) two members of the board of the local health department who are not elected officials of the counties in the local health department, selected by the board; and
 - (iii) one member selected by the members appointed under Subsections (2)(b)(i) and (ii), however, the member appointed under this Subsection (2)(b)(iii) may not be an elected official of the counties in the local health department and may not be a member of the board of the local health department.
 - (c)
 - (i) The hearing panel shall report its decision regarding termination to the board and to the counties in the local health department.
 - (ii) The counties and board receiving the report shall vote on whether to retain or terminate the local health officer.
 - (iii) The health officer is terminated if:
 - (A) the board votes to terminate; or
 - (B) a majority of the counties in the local health department vote to terminate.

Amended by Chapter 113, 2016 General Session

26A-1-112 Appointment of personnel.

- (1) All local health department personnel shall be hired by the local health officer or the local health officer's designee in accordance with the merit system, personnel policies, and compensation plans approved by the board and ratified pursuant to Subsection (2). The personnel shall have qualifications for their positions equivalent to those approved for comparable positions in the Departments of Health and Environmental Quality.
- (2) The merit system, personnel policies, and compensation plans approved under Subsection (1) shall be ratified by all the counties participating in the local health department.
- (3) Subject to the local merit system, employees of the local health department may be removed by the local health officer for cause. A hearing shall be granted if requested by the employee.

Amended by Chapter 297, 2011 General Session

26A-1-113 Right of entry to regulated premises by representatives for inspection.

- (1) Upon presenting proper identification, authorized representatives of local health departments may enter upon the premises of properties regulated by local health departments to perform routine inspections to insure compliance with rules, standards, regulations, and ordinances as adopted by the Departments of Health and Environmental Quality, local boards of health, county or municipal governing bodies, or administered by the Division of Occupational and Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act.
- (2) Section 58-56-9 does not apply to health inspectors acting under this section.
- (3) This section does not authorize local health departments to inspect private dwellings.

Amended by Chapter 14, 2011 General Session

26A-1-114 Powers and duties of departments.

- (1) A local health department may:
 - (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Occupational and Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26, Chapter 15a, Food Safety Manager Certification Act, in all incorporated and unincorporated areas served by the local health department;
 - (b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;
 - (c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;
 - (d) establish and operate reasonable health programs or measures not in conflict with state law which:
 - (i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or
 - (ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;
 - (e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;
 - (f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;
 - (g) make necessary sanitary and health investigations and inspections on its own initiative or in cooperation with the Department of Health or Environmental Quality, or both, as to any matters affecting the public health;
 - (h) pursuant to county ordinance or interlocal agreement:
 - (i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

- (ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and
 - (iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;
 - (i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:
 - (i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and
 - (ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;
 - (j) investigate the causes of morbidity and mortality;
 - (k) issue notices and orders necessary to carry out this part;
 - (l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;
 - (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;
 - (n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;
 - (o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108; and
 - (p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health-related activities.
- (2) The local health department shall:
- (a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;
 - (b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 76-5-503;
 - (c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and
 - (d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:
 - (i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;
 - (ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;
 - (iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and
 - (iv) is reviewed and updated annually.

- (3) The local health department has the following duties regarding public and private schools within its boundaries:
- (a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;
 - (b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and
 - (c)
 - (i) make regular inspections of the health-related condition of all school buildings and premises;
 - (ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and
 - (iii) provide a copy of the report to the department at the time the report is made.
- (4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.
- (5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.
- (6) Nothing in this part may be construed to authorize a local health department to enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

Amended by Chapter 14, 2011 General Session

Amended by Chapter 177, 2011 General Session

26A-1-115 Apportionment of costs -- Contracts to provide services -- Percentage match of state funds -- Audit.

- (1)
- (a) The cost of establishing and maintaining a multicounty local health department may be apportioned among the participating counties on the basis of population in proportion to the total population of all counties within the boundaries of the local health department, or upon other bases agreeable to the participating counties.
 - (b) Costs of establishing and maintaining a county health department shall be a charge of the county creating the local health department.
 - (c) Money available from fees, contracts, surpluses, grants, and donations may also be used to establish and maintain local health departments.
 - (d) As used in this Subsection (1), "population" means population estimates prepared by the Utah Population Estimates Committee.
- (2) The cost of providing, equipping, and maintaining suitable offices and facilities for a local health department is the responsibility of participating governing bodies.
- (3) Local health departments that comply with all department rules and secure advance approval of proposed service boundaries from the department may by contract receive funds under Section 26A-1-116 from the department to provide specified public health services.
- (4) Contract funds distributed under Subsection (3) shall be in accordance with Section 26A-1-116 and policies and procedures adopted by the department.
- (5) Department rules shall require that contract funds be used for public health services and not replace other funds used for local public health services.

(6) All state funds distributed by contract from the department to local health departments for public health services shall be matched by those local health departments at a percentage determined by the department in consultation with local health departments. Counties shall have no legal obligation to match state funds at percentages in excess of those established by the department and shall suffer no penalty or reduction in state funding for failing to exceed the required funding match.

- (7)
- (a) Each local health department shall cause an annual financial and compliance audit to be made of its operations by a certified public accountant. The audit may be conducted as part of an annual county government audit of the county where the local health department headquarters are located.
 - (b) The local health department shall provide a copy of the audit report to the department and the local governing bodies of counties participating in the local health department.

Amended by Chapter 249, 2002 General Session

26A-1-116 Allocation of state funds to local health departments -- Formula.

- (1)
- (a) The Departments of Health and Environmental Quality shall each establish by rule a formula for allocating state funds by contract to local health departments.
 - (b) This formula shall provide for allocation of funds based on need.
 - (c) Determination of need shall be based on population unless the department making the rule establishes by valid and accepted data that other defined factors are relevant and reliable indicators of need.
 - (d) The formula shall include a differential to compensate for additional costs of providing services in rural areas.
- (2)
- (a) The formulas established under Subsection (1) shall be in effect on or before July 1, 1991.
 - (b) The formulas apply to all state funds appropriated by the Legislature to the Departments of Health and Environmental Quality for local health departments.
 - (c) The formulas do not apply to funds a local health department receives from:
 - (i) sources other than the Departments of Health and Environmental Quality; and
 - (ii) the Departments of Health and Environmental Quality:
 - (A) to operate a specific program within the local health department's boundaries which program is available to all residents of the state;
 - (B) to meet a need that exists only within the local health department's boundaries; and
 - (C) to engage in research projects.

Amended by Chapter 112, 1991 General Session

Renumbered and Amended by Chapter 269, 1991 General Session

26A-1-117 Funding of departments -- Tax levies.

- (1) Counties involved in the establishment and operation of local health departments shall fund the local health departments with appropriations from the General Fund, from the levy of a tax, or in part by an appropriation and in part by a levy under Section 17-53-221.
- (2) A local health department may be funded as provided by law from:
 - (a) local, state, and federal funds within local levy ceilings;

- (b) a separate ceiling exempt tax under Section 59-2-911, which may not exceed .0004 per dollar of taxable value of taxable property; or
 - (c) in part by each.
- (3) Local funds from either tax source shall be appropriated by the local governing authorities of the counties participating in the local health department.

Amended by Chapter 249, 2002 General Session

26A-1-118 Treasurer of local department -- Bond.

- (1) The county treasurer shall serve as treasurer of a local health department.
- (2) Unless another county treasurer is designated pursuant to the interlocal agreement creating the multicounty local health department or the multicounty united local health department, the county treasurer of the county in which the headquarters of the multicounty local health department or the multicounty united local health department is located shall serve as treasurer of the multicounty local health department.
- (3) The official bond of a county treasurer shall cover the duties as treasurer of a local health department.

Amended by Chapter 113, 2016 General Session

26A-1-119 Local health department fund -- Sources -- Uses.

- (1) Except as provided in Section 26A-1-105.5, the treasurer of a local health department shall, as part of the department organization, create a local health department fund to which shall be credited any money appropriated or otherwise made available by participating counties or other local political subdivisions, and any money received from the state, federal government, or from surpluses, grants, fees, or donations for local health purposes.
- (2)
 - (a) Money credited to the fund shall be placed in a restricted account and expended only for maintenance and operation of the local health department.
 - (b) Claims or demands against the fund shall be allowed on certification by the health officer or other employee of the local health department designated by the health officer.

Amended by Chapter 113, 2016 General Session

26A-1-120 County attorney or district attorney to represent and advise department, board, officers, and employees.

- (1) Except as otherwise provided in this section, the county attorney of the county in which the headquarters of the local health department is located shall serve as legal advisor to the local health department in all civil matters involving the local health department.
- (2) The county attorney of the county where a civil claim arises shall bring any action requested by a local health department to abate a condition that exists in violation of, or to restrain or enjoin any action which is in violation of the public health laws and rules of the Departments of Health and Environmental Quality, the standards, regulations, orders, and notices, of a local health department, and other laws, ordinances, and rules pertaining to health and sanitary matters.
- (3)
 - (a) The district attorney or county attorney having criminal jurisdiction shall prosecute criminal violations of the public health laws and rules of the Departments of Health and Environmental

Quality, the standards, regulations, orders, and notices, of a local health department, and other laws and rules pertaining to health and sanitary matters.

- (b) Violations of local ordinances relating to public health matters shall be prosecuted by the prosecuting attorney of the jurisdiction enacting the ordinance.
- (4) The county attorney of a county where an action arises shall, if requested by the county attorney designated in Subsection (1):
 - (a) act as legal adviser to the local health department and the board with respect to the action; and
 - (b) defend all actions and proceedings brought in that county against the local health department, the board, or the officers and employees of the local health department.

Amended by Chapter 249, 2002 General Session

26A-1-121 Standards and regulations adopted by local board -- Local standards not more stringent than federal or state standards -- Exceptions for written findings -- Administrative and judicial review of actions.

- (1)
 - (a) The board may make standards and regulations:
 - (i) not in conflict with rules of the Departments of Health and Environmental Quality; and
 - (ii) necessary for the promotion of public health, environmental health quality, injury control, and the prevention of outbreaks and spread of communicable and infectious diseases.
 - (b) The standards and regulations under Subsection (1)(a):
 - (i) supersede existing local standards, regulations, and ordinances pertaining to similar subject matter; and
 - (ii) except as provided under Subsection (1)(c) and except where specifically allowed by federal law or state statute, may not be more stringent than those established by federal law, state statute, or administrative rules adopted by the Utah Department of Health in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (c)
 - (i) The board may make standards and regulations more stringent than corresponding federal law, state statute, or state administrative rules for the purposes described in Subsection (1)(a), only if the board makes a written finding after public comment and hearing and based on evidence in the record, that corresponding federal laws, state statutes, or state administrative rules are not adequate to protect public health and the environment of the state.
 - (ii) The findings shall address the public health information and studies contained in the record, which form the basis for the board's conclusion.
 - (d) The board shall provide public hearings prior to the adoption of any regulation or standard. Notice of any public hearing shall be published at least twice throughout the county or counties served by the local health department. The publication may be in one or more newspapers, if the notice is provided in accordance with this Subsection (1)(d).
 - (e) The hearings may be conducted by the board at a regular or special meeting, or the board may appoint hearing officers who may conduct hearings in the name of the board at a designated time and place.
 - (f) A record or summary of the proceedings of a hearing shall be taken and filed with the board.
- (2)
 - (a) A person aggrieved by an action or inaction of the local health department relating to the public health shall have an opportunity for a hearing with the local health officer or a

designated representative of the local health department. The board shall grant a subsequent hearing to the person upon the person's written request.

- (b) In an adjudicative hearing, a member of the board or the hearing officer may administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name of the board requiring the testimony of witnesses and the production of evidence relevant to a matter in the hearing. The local health department shall make a written record of the hearing, including findings of facts and conclusions of law.
- (c) Judicial review of a final determination of the local board may be secured by a person adversely affected by the final determination, or by the Departments of Health or Environmental Quality, by filing a petition in the district court within 30 days after receipt of notice of the board's final determination.
- (d) The petition shall be served upon the secretary of the board and shall state the grounds upon which review is sought.
- (e) The board's answer shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter together with the board's findings of fact, conclusions of law, and order.
- (f) The appellant and the board are parties to the appeal.
- (g) The Departments of Health and Environmental Quality may become a party by intervention as in a civil action upon showing cause.
- (h) A further appeal may be taken to the Court of Appeals under Section 78A-4-103.
- (3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability of a local health department board to make standards and regulations in accordance with Subsection (1)(a) for:
 - (a) emergency rules made in accordance with Section 63G-3-304; or
 - (b) items not regulated under federal law, state statute, or state administrative rule.

Amended by Chapter 307, 2012 General Session

26A-1-122 Counties joining existing department -- Abolition of department -- Withdrawal of county from department.

- (1) If additional or adjacent counties join an existing local health department, provisions shall be made for the appointment and terms of new board members in accordance with the applicable provisions of this part.
- (2)
 - (a) A local health department established under this part may not be abolished until it has been in existence at least two years.
 - (b) A participating county may not withdraw from a local health department until the county has participated in maintenance of the local health department for at least two years. The effective date of any withdrawal shall be December 31. Ninety days prior written notice of the withdrawal shall be given to the board.
- (3) If a local health department is abolished, the participating counties shall establish local health departments under Section 26A-1-103, 26A-1-105, or 26A-1-106 at least 30 days prior to abolishment.

Amended by Chapter 249, 2002 General Session

26A-1-123 Unlawful acts -- Criminal and civil liability.

- (1) It is unlawful for any person, association, or corporation, and the officers of the association or corporation to:

- (a) violate state laws or any lawful notice, order, standard, rule, or regulation issued under state laws or local ordinances regarding public health or sanitation;
 - (b) violate, disobey, or disregard any notice or order issued by a local health department pursuant to any state or federal law, federal regulation, local ordinance, rule, standard, or regulation relating to public health or sanitation;
 - (c) fail to make or file reports required by law relating to the existence of disease or other facts and statistics relating to the public health;
 - (d) willfully and falsely make or alter any certificate or certified copy issued under public health laws;
 - (e) fail to remove or abate from private property under the control of the person, association, or corporation at their own expense, within a reasonable time not to exceed 30 days after issuance of an order to remove or abate, any nuisance, source of filth, cause of sickness, dead animal, health hazard, or sanitation violation within the boundaries of the local health department whether the person, association, or corporation is the owner, tenant, or occupant of the private property; or
 - (f) pay, give, present, or otherwise convey to any local health officer or employee of a local health department or any member of a local board of health any gift, remuneration, or other consideration, directly or indirectly, which the officer or employee is prohibited from receiving by this section.
- (2) Removal or abatement under Subsection (1)(e) shall be ordered by the local health department and accomplished within a reasonable time determined by the local health department, but not exceeding 30 days after issuance of an order to remove or abate.
- (3) It is unlawful for any local health officer or employee of any local health department or member of any local board of health to accept any gift, remuneration, or other consideration, directly or indirectly, for the performance of the duties imposed upon the officer, employee, or member by or on behalf of the health department or by this part.
- (4) It is unlawful for any local health officer or employee of a local health department, during the hours of the officer's or employee's regular employment by the local health department, to perform any work, labor, or services other than duties assigned to the officer or employee by or on behalf of the local health department.
- (5)
- (a) Any person, association, corporation, or the officers of the association or corporation who violates any provision of this section is:
 - (i) on the first violation guilty of a class B misdemeanor; and
 - (ii) on a subsequent similar violation within two years, guilty of a class A misdemeanor.
 - (b) In addition any person, association, corporation, or the officers of the association or corporation, are liable for any expense incurred in removing or abating any nuisance, source of filth, cause of sickness, dead animal, health hazard, or sanitation violation.
- (6) Conviction under this section or any other public health law does not relieve the person convicted from civil liability for any act that was also a violation of the public health laws.
- (7) Each day of violation of this section is a separate violation.

Amended by Chapter 112, 1991 General Session

Renumbered and Amended by Chapter 269, 1991 General Session

26A-1-124 Religious exemptions.

This part does not authorize a local health department to impose on any person any mode of treatment inconsistent with the creed or tenets of any religious denomination of which the

person is an adherent, provided the person complies with sanitary and quarantine laws, rules, and regulations.

Renumbered and Amended by Chapter 269, 1991 General Session

26A-1-125 Existing local health departments required to conform to statutory amendments.

Each county or municipality operating or participating in the operation of a local health department in existence as of January 1, 2002, shall, no later than June 30, 2003, amend its local ordinances, policies, or interlocal agreements relating to the organization and operation of the local health department to conform to the statutory amendments to Title 26A, Local Health Authorities, during the 2002 General Session.

Enacted by Chapter 249, 2002 General Session

26A-1-126 Medical reserve corps.

- (1) In addition to the duties listed in Section 26A-1-114, a local health department may establish a medical reserve corps in accordance with this section.
- (2) The purpose of a medical reserve corps is to enable a local health authority to respond with appropriate health care professionals to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the president of the United States or other federal official requesting public health related activities.
- (3)
 - (a) A local health department may train health care professionals who participate in a medical reserve corps to respond to an emergency or declaration for public health related activities pursuant to Subsection (2).
 - (b) When an emergency or request for public health related activities has been declared in accordance with Subsection (2), a local health department may activate a medical reserve corps for the duration of the emergency or declaration for public health related activities.
- (4) For purposes of this section, a medical reserve corps may include persons who:
 - (a) are licensed under Title 58, Occupations and Professions, and who are operating within the scope of their practice;
 - (b) are exempt from licensure, or operating under modified scope of practice provisions in accordance with Subsections 58-1-307(4) and (5); and
 - (c) within the 10 years preceding the declared emergency, held a valid license, in good standing in Utah, for one of the occupations described in Subsection 58-13-2(1), but the license is not currently active.
- (5)
 - (a) Notwithstanding the provisions of Subsections 58-1-307(4)(a) and (5)(b) the local health department may authorize a person described in Subsection (4) to operate in a modified scope of practice as necessary to respond to the declaration under Subsection (2).
 - (b) A person operating as a member of an activated medical reserve corps or training as a member of a medical reserve corps under this section:
 - (i) shall be volunteering for and supervised by the local health department;
 - (ii) shall comply with the provisions of this section;
 - (iii) is exempt from the licensing laws of Title 58, Occupations and Professions; and
 - (iv) shall carry a certificate issued by the local health department which designates the individual as a member of the medical reserve corps during the duration of the emergency or declaration for public health related activities pursuant to Subsection (2).

- (6) The local department of health may access the Division of Occupational and Professional Licensing database for the purpose of determining if a person's current or expired license to practice in the state was in good standing.
- (7) The local department of health shall maintain a registry of persons who are members of a medical reserve corps. The registry of the medical reserve corps shall be made available to the public and to the Division of Occupational and Professional Licensing.

Amended by Chapter 44, 2013 General Session

26A-1-127 Surge capacity, surveillance, and community outreach plan.

- (1) In addition to the duties listed in Section 26A-1-114, a local health department shall develop and implement a locally appropriate plan, in coordination with appropriate local, state, and federal partners, to:
 - (a) investigate disease outbreaks;
 - (b) expand outreach and education efforts to employers, schools, and community organizations; and
 - (c) expand local capacity to respond to disasters or disease outbreaks.
- (2) The plan required by Subsection (1) shall include as a minimum, details on how the local health department will maintain, train, and strengthen:
 - (a) the Medical Reserve Corps authorized by Section 26A-1-126;
 - (b) disease surveillance systems;
 - (c) disease outbreak management systems to respond to communicable and food borne illness; and
 - (d) emergency preparation and response plans to address infrastructure capacity and outreach and training to community partners.

Enacted by Chapter 178, 2007 General Session